

---

**Agriculture & Natural  
Resources Committee**

---

**HB 1380**

**Brief Description:** Criminalizing interference with certain mining rights and activities.

**Sponsors:** Representatives Ericksen, Sump, Mielke, Ahern, Clements, Hatfield, Pearson, Buck, Sullivan and Carrell.

**Brief Summary of Bill**

- Creates a gross misdemeanor offense of mineral trespass for intentionally and without permission disturbing or removing minerals, equipment, or identifying markers at a posted mining claim.
- Creates a gross misdemeanor offense for interfering with a lawful small scale mining operation.

**Hearing Date:** 2/14/03

**Staff:** Derek Green (786-5793).

**Background:**

Mining

Regulations on mining are administered by both the state and federal governments. On federal land, a person may file a mining claim for mineral deposits, such as gold and silver. Mining claims on federal land must also comply with state regulations. Under Washington law, a federal mining claim must be recorded with the county auditor, and the claim site must have a posted notice of the claim. The posting must comply with specific requirements, including marking the boundaries of the claim and clearing brush or trees that interfere with the posting.

State land is not subject to the federal mining claim system. Instead, Washington leases land for prospecting purposes, and enters into contracts for mining on state land. State law distinguishes small mining operations from other mining operations for certain regulatory purposes. A "small scale prospecting and mining" designation exempts small mining

operations from some Department of Fish and Wildlife permitting requirements that regulate mining operations near rivers, streams and other bodies of water. Small scale prospecting and mining operations are defined as using pans, non-motorized sluice boxes, concentrators, and mini-rocker boxes for the discovery of minerals.

### Current Offenses

There are general laws against trespassing, malicious mischief and theft. A person commits the crime of criminal trespass for knowingly entering or remaining unlawfully on a premises. If the premises is a building, the crime is defined as a gross misdemeanor. If the premises is not a building, it is a misdemeanor.

A person commits the crime of malicious mischief for knowingly and maliciously causing physical damage to the property of another or for interfering with public services. The gravity of the offense varies from a class B felony to a misdemeanor, depending upon the amount of property damage caused.

A person commits the crime of theft for wrongfully obtaining or exerting control over another's property with the intent to deprive the person of the property. The gravity of the offense ranges from a class B felony to a gross misdemeanor.

There are also more specific offenses for certain activities that fall under these crimes. For example, a person who trespasses on public lands of the state and harms or removes any trees, engages in any mining operations, or removes any valuable materials is guilty of theft.

Unless otherwise specified, general provisions establish the maximum sentence allowed for each type of crime. The maximum sentences are: ten years and/or \$20,000 for a class B felony; five years and/or \$10,000 for a class C felony; one year and/or \$5,000 for a gross misdemeanor; and ninety days and/or \$1,000 dollars for a misdemeanor offense.

### **Summary of Bill:**

Two gross misdemeanor offenses are created. A person commits the crime of mineral trespass for intentionally and without permission:

- (1) disturbing, removing, or attempting to remove any minerals at a posted mining claim;
- (2) tampering with or disturbing any mining equipment at a posted mining claim; or
- (3) defacing any landmarks or other markers at a posted mining claim.

A person commits the offense of interfering with a lawful small scale mining operation that is in full compliance with the law by intentionally interfering with, or causing the stopping of, the functioning of a small scale mining operation.

The maximum sentences for these two offenses are the same as for other gross misdemeanors.

An exception to these offenses is created for conduct that is required or authorized by law or

is performed by a public servant reasonably acting in official capacity.

**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2003.

**Effective Date:** The bill takes effect ninety days after adjournment of session in which bill is passed.